

LABOUR DEPARTMENT

The 7th June, 1972

No. 6335-4Lab-72/26068.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Rohtak General Transport Co. (P) Ltd., Rohtak.

BEFORE SHRI P.N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK.

Reference No. 180 of 1970

Between

The Workman Shri Vijay Singh C/o Haryana Motor Transport Workers Union, Rohtak and the Management of M/s Rohtak General Transport Co. (P) Ltd. Rohtak.

Present :-

Shri S.N. Vats, for the workman.
Nemo for the management.

AWARD

Shri Vijay Singh was employed as a driver in M/s. Rohtak General Transport Co. (P) Ltd. Rohtak. He complaints that the management terminated his services on 27th May, 1970 without disclosing any reason. This gave rise to an industrial dispute. Accordingly the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication,—*vide* Government Gazette Notification No. ID/RK/89-D-70, dated 23rd September, 1970.

“Whether the termination of services of Shri Vijay Singh, Driver was justified and in order ? If not; to what relief is he entitled ?

On receipt of the reference usual notices were issued to the parties in response to which the management filed their written statement. The case of the management is that they had not terminated the services of the workman but he himself abandoned his job on account of his continued ill health and disability to work as a driver of a heavy vehicle. It was stated that the workman caused an accident in which he was injured and he has been under treatment at Hissar and he was paid his salary upto 31st March, 1970 and thereafter no further representation of any kind was received from him. It is stated that the applicant knew that he was unable to perform his normal duty and for this reason he did not report for duty and accepted some light driving duty in Haryana State Electricity Board. The pleadings of the parties gave rise to the following issues :—

1. Whether the applicant caused an accident in which he was injured and he remained under treatment ?
2. Whether the applicant was not on duty after 19th February, 1970 and he abandoned his services ?

Issue No 1.—So far as issue No. 1 is concerned the applicant himself admits that there was an accident on 16th May, 1970 in which he received an injury on account of which he remained in the hospital for treatment. I find this issue in favour of the management.

Issue No. 2.—Shri Siri Krishan, Director of the respondent concern has appeared as a witness and has stated that the applicant did not report duty after 19th February, 1970 nor did he submit any application for leave. He says that the applicant has been paid his salary for the month of February and when an enquiry was made from him as to why he was not reporting for duty the workman explained his inability to report for duty on the ground that he was not well. Shri Siri Krishan further says that the workman was paid his salary for the month of March, and April, as well but still he did not report for duty on the ground that he had heart-attack. The witness explains that the workman was an old employee and, therefore, he was paid for the month of March and April also in the hope that when he was fit to resume duty then his absence would be adjusted against the leave which may be due to him. The witness also stated that they had 23 or 24 route permits out of which only one route for 15 or 16 miles is left.

In rebuttal the workman produced four witnesses and also appeared as a witness in support of his case. Shri Kanwal Nain W.W.I who is a co-worker of the applicant states that the accident was caused in 1970 in which the applicant was injured and was taken to the Civil Hospital, Hissar and then under the order of Shri Mehta, General Manager the applicant was brought to Rohtak and was got treated in the Medical College. The witness says that when the applicant was cured he reported for duty and in order to test his fitness to drive a heavy vehicle he was asked to drive Bus No. 1650 from Rohtak to Panipat and back and it was found that

the applicant was wholly fit. The witness further stated that when the foot of the applicant was under plaster he used to visit the office of the respondent and the General Manager told him that he would be taken back on duty as soon as he was fit. Shri Ujala Ram, W.W. 3 who is also a co-worker corroborates the version of Shri Kanwal Nain. Shri Jitender Singh W.W. 2 is son of the applicant. He says that he took the application of his father for leave in the office of the respondent and he was told by the General Manager that the leave application has been sanctioned and the applicant could report for duty as soon as he was fit. Shri Narinderjit Singh Chadha, W.W. 4, Assistant Professor of Orthopaedic Medical College, Rohtak has proved the certificate of fitness photo stet copy of which is Exhibit W. 1. This certificate is dated 26th May, 1970. The applicant was examined as a witness and he denies that he abandoned his job. On the contrary he says that he attended the office of the respondent on the very next day of the accident and met Shri O.P. Mehta, General Manager. The witness further stated that on 22nd or 23rd he submitted an application for leave through his son and as soon as he got well he reported for duty on 17th May, 1970 and after five or six days the General Manager asked him to drive Bus No. HRR-1650 from Rohtak to Panipat and back which he did not but still he was not taken back on duty although he produced the certificate of fitness also.

In cross-examination he was asked if he had suffered from heart attack also. It is, however, not necessary to go into this question of the physical fitness of the applicant because the stand taken up by the management is that the workman had himself abandoned his job and not that he was not medically fit and so he could not be taken back on duty. It is satisfactorily established by the medical certificate photo stet copy of which is Exhibit W. 1 that the applicant was fit to perform duty. It is also proved that the applicant never abandoned his job but was unfit to perform his duty till 16th May, 1970 because of the accident and the injury which was suffered by him. I find this issue in favour of the workman.

As regards the relief the workman has not come out in a state forward manner with the details of the job which he has taken in the Haryana State Electricity Board. In his evidence he does not say any thing about his job in the Electricity Board and when pressed to give the details during his cross-examination the applicant stated that during the last two months he some times drove the Jeep of the Electricity Board. He stated that in 1970 he did not do any work and he took up the job in the month of March. He then corrected himself and stated that previously also he used to drive the Jeep on daily basis. The workman should have come forward and given the details of his job to enable the Court to give him appropriate relief with regard to back wages. The workman is the best person to state as to when he was physically fit to resume duty and what job if any was taken by him. The workman says that on 28th March, 1971 he had heart trouble. In view of the secretive attitude taken by the workman with regard to his physical health and the other job taken by him I am of the opinion that he is not entitled to back wages.

As regards the question of his re-instatement Shri Siri Krishan, Director of the respondent concern has stated that they had 23 or 24 route permits but they are left with only one route permit. Thus the question of the re-instatement of the applicant does not arise and the only relief which can be given to him is retrenchment compensation. The workman says that he joined the respondent concern in 1957 and he met with an accident on 19th February, 1970. This means that the applicant has been in the service of the respondent for twelve years. The applicant was getting Rs 220. The applicant is entitled to Rs 1320 as retrenchment compensation and Rs. 220 as notice pay total being Rs 1540.

Date 1st June, 1972

P. N. THUKRAL,
Presiding Officer,
Labour Court Haryana, Rohtak.

No. 1033

Dated, Rohtak, the 2nd June, 1972.

Forwarded in quadruplicate to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

P.N. THUKRAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

The 12th June, 1972.

No. 6459-4Lab-72/26070.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana Rohtak, in respect of the dispute between the workmen and the management of M/s Kundli Engineering Industries (P) Ltd., Kundli.

BEFORE SHRI P.N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, HARYANA
ROHTAK,

Reference No. 56 of 1970.
Between

Shri Balbir Singh C/o President, General Workers Union, Sonepat and the Management of M/s Kundli Engineering Industries (P) Ltd., Kundli.

Plaint :—

Shri M.S. Rathi for the applicant.
Nemo for the respondent.

AWARD

Shri Balbir Singh was employed as a Fitter in the respondents concern. His services were terminated. Accordingly, the Governor of Haryana in exercise of the powers conferred by clause (c) of the sub-section (1) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute to the Labour Court, Rohtak, for adjudication *vide* Haryana Government Gazette Notification No. ID/RK/109/C-69/23300-4, dated 21st August, 1969 :—

“Whether the dismissal of Shri Balbir Singh was justified and in order. If not, to what relief is he entitled ?”

The Labour Court, Rohtak, ceased to function by reason of the judgement dated 2nd September, 1969, of the High Court given in Civil Writ Petition No. 1129 of 69 filed by M/s Gedore Tools (I) Ltd., Faridabad. Accordingly, the Government of Haryana constituted another Labour Court *vide* Gazette Notification No. 3864-ASO(E)-Lab-70 dated the 8th May, 1970 and referred all the pending disputes including the present dispute to his court *vide* Gazette Notification No. 6091-E-Lab-70/22387 dated 31st July, 1970.

Notice was issued to the parties for 30th September, 1970. The respondent did not file the written statement inspite of direction to this effect. Shri J.M. Dutta was present on behalf of the management and at his request the case was adjourned to 2nd November, 1970 for filing the written statement and framing the issues. On the date fixed Shri Dutta again requested for adjournment. This request was allowed on payment of Rs 15 as cost and the case was adjourned to 4th December, 1970. On the date fixed no body appeared on behalf of the management nor the written statement was filed. Since the Presiding Officer was on leave the case was adjourned and thereafter the proceedings were stayed because of the writ petition which had been filed in reference No. 72 of 1970 by M/s Hindustan Vacuum Glass Ltd., Faridabad in which the validity of the references made to this court was challenged and the High Court was pleased to stay further proceedings in that case. The Writ Petition was withdrawn and further proceedings were started. Notice was issued to the parties to appear on 4th April, 1972. Shri J.M. Dutta appeared and on his request the case was adjourned to 1st May, 1972, to enable him to file the written statement but on the date fixed no body again appeared on behalf of the management. A telegram was received in which a request was made for adjournment on the ground that the date fixed i.e. 1st May was a public Holiday. This position was not factually correct because the Government had not notified that the 1st day was a Public Holiday and it was, therefore, considered that there was no ground for adjournment. The Workman was directed to give evidence in support of his case.

The workman has appeared as a witness in support of his case and has stated that he joined the respondent Concern on 18th December, 1967 on Rs 175 P.M. He says that he was a union leader and, therefore, the management falsely charged him that he was absent without leave and so wrongly terminated his services. The workmen has affirmed on oath that he had made an application for leave from 13th August, 1968 to 17th August, 1968 but the management did not give him any reply. He says that he attended his duty on 14th August, 1968 and then he went to his house, where he fell ill. He requested for leave from 17th August, 1968 on account of illness. The workman says that his leave application on medical ground from 17th August, 1968 to 23rd August, 1968 was supported by a Medical Certificate. The workman has produced the copies of the leave applications and the Medical Certificate of his illness as well as the fitness certificate. According to the workmen, the charge sheet given to him was not correct and his order of dismissal was not justified.

The management have not cared to defend this case although a number of opportunities have been given to them. It is proved by the un-rebutted evidence of the workman that the termination of his services were not justified. He is, therefore, entitled to be re-instated with continuity of service.

As regards back wages the workman has stated that he was not employed elsewhere during the period of his enforced idleness. Since the proceedings in the case remained stayed for a long period for which the management can not be blamed, I am of the opinion that they would be liable to pay only half of the back wages. I give my award accordingly. No order as to costs.

P. N. THUKRAL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1089

dated, Rohtak, the 6th June, 1972.

Forwarded (four copies) to the Secretary to Government, Haryana Labour and Employment Departments Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,

Presiding Officer,
Labour Court Haryana,
Rohtak.